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IN THE

Supreme Court of the United States

October Term, 1978

No. 77-983

STATE OF WASHINGTON, *et al.*,
Petitioners,

v.

WASHINGTON STATE COMMERCIAL PASSENGER FISHING VESSEL ASSOCIATION AND WASHINGTON KELPERS ASSOCIATION,
Respondents.

No. 78-119

STATE OF WASHINGTON, *et al.*,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

No. 78-139

PUGET SOUND GILLNETTERS ASSOCIATION, *et el.*,
Petitioners,

v.

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON,
Respondent.

BRIEF OF THE INTERVENOR-RESPONDENT QUINAULT INDIAN NATION

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BRIEF OF THE INTERVENOR-RESPONDENT QUINAULT INDIAN NATION

I.

QUESTION PRESENTED

May the Intervenor-Respondent Quinault Indian Nation, be permitted to regulate its own members fishing at treaty protected usual and accustomed fishing grounds and stations outside the Quinault Indian Reservation, free of assertions of police power by the State of Washington, absent a showing of necessity to regulate for conservation purposes by the State of Washington.

II.
INTRODUCTION

The District Court of the Western District of Washington in *United States v. Washington* (Joint Appendix at p. 63) held that Indian tribal governments meeting certain standards are entitled to regulate their own members fishing at usual and accustomed fishing grounds and stations, free of assertions of state police power, as long as the tribal government is specifically qualified to do so and meets certain conditions (Joint Appendix pp. 82-86). The Court of Appeals for the Ninth Circuit upheld the District Court's declaration of "self-regulatory" status for qualified tribes, finding that such status did not infringe on the State's power to regulate for conservation purposes and was within the equitable discretion of the Court. (Joint Appendix p. 48).

Only two tribal governments of the twenty now intervened in *United States v. Washington* have been found qualified for self-regulatory status. The Quinault Indian Nation is so qualified and has been operating its fisheries under the provisions of the District Court Decree since 1974. In order to qualify for self-regulatory status a tribal government must have:

> (a) Competent and responsible leadership.
>
> (b) Well organized tribal government reasonably competent to promulgate and apply tribal off-reservation fishing regulations that, if strictly enforced, will not adversely affect conservation.
>
> (c) Indian personnel trained for and competent to provide effective enforcement of all tribal fishing regulations.
>
> (d) Well qualified experts in fishery science and management who are either on the tribal staff or whose services are arranged for and readily available to the tribe.
>
> (e) An officially approved tribal membership roll.
>
> (f) Provision for tribal membership certification, with individual identification by photograph, in a suitable form that shall be carried on the person of each tribal member when approaching, fishing in or leaving either on or off-reservation waters.

A self-regulating tribe, in order to retain its status, must comply with the following conditions:

> (a) Provide for full and complete tribal fishing regulations which, before adoption, have been discussed in their proposed final form with Fisheries and Game, and include therein any state regulation which has been established to the satisfaction of the tribe, or upon hearing by or under direction of this court, to be reasonable and necessary for conservation.
>
> (b) Permit monitoring of off-reservation Indian fishing by Fisheries and Game to the extent reasonable and necessary for conservation.
>
> (c) Provide fish catch reports, as to both on and off-reservation treaty right fishing, when requested by Fisheries or Game for the purpose of establishing escapement goals and other reasonable and necessary conservation purposes.

(Joint Appendix pp. 84-85)

The Quinault Nation has filed this separate Respondent's Brief specifically to present its own case for fisheries self-regulation under the treaties. The Quinault Nation is made up of the tribes and bands affiliated under the Treaty of Olympia, 12 Stat. 971; *Halbert v. United States*, 283 U.S. 753 (1931). The Bureau of Indian Affairs recognizes the Tribe as organized under the provisions of the Indian Reorganization Act in 1935 (25 U.S.C. § 461-483), but the Quinault Nation continues to govern itself under the

1922 tribal constitution, as amended 1965 and 1975. The enrolled membership of the Quinault Nation is approximately 2,000 persons.

The tribal homeland of the Quinault Nation, reserved by the treaty of 1856, consists of approximately 200,000 acres on the Olympic coastline, and is surrounded by the State of Washington. The Reservation includes within its boundaries the whole length of one coastal river, significant portions of three others, and the total surface and shoreline of a 20,000 acre lake. The Reservation remains virtually unpopulated by non-Indians. The waters of the Quinault Reservation are spawning and nurturing grounds of chinook salmon, chum salmon, sockeye salmon, and steelhead trout.

For untold centuries the people of the Quinault Nation have earned their livelihood by harvesting salmon and steelhead in the river and marine waters from the Olympic Peninsula south to the Columbia River. Much of the modern Quinault culture and economy, as in centuries past, is based upon harvesting, studying, protecting, propagating, preserving for future consumption, preparing for sale, commercial shipping, and sale[1] of the salmon and steelhead runs that enter Reservation waters and the off-reservation waters at usual and accustomed grounds and stations.

III.

SUMMARY OF BRIEF

This brief will describe: the modern existence of the Quinault people and how that existence is organized around the salmon and steelhead resources the farsighted

1. The ancestors of the Quinault Nation engaged in the commercial sale of salmon and steelhead before and at the time of the treaties. (Joint Appendix, pp. 370-372, 393-394, 398-406, 415.)

ancestors of the Quinault reserved for their use by federal treaty some one hundred and twenty four years ago; the reasons that the Quinault Nation was found by the District Court in *United States v. Washington* to be a self-regulating tribe, 384 F. Supp. 341, (Joint Appendix pp. 85-86); the powers of the State to regulate Quinault fisheries for conservation purposes; the practical consequences of self-regulation; the legal justification for self-regulating status.

IV.

THE QUINAULT NATION IS A COMPETENT, INDEPENDENT, FISHERIES MANAGER

The Quinault Indian Nation is the only tribe found to be self-regulating with an active fishery in the area covered by the Decision of the District Court.[2] The decision to affirm the self-regulatory status of the Quinault Nation was based in part upon the following factors:

(1) The Quinault Nation has a long history of effective fisheries regulation of its members, without interference by State or federal agencies.

(2) The Quinault Nation has a large University trained staff of fisheries scientists, supported by necessary technical equipment and data gathering systems.

(3) The Quinault Nation operates a substantial hatchery system which has planted more than forty-eight million salmon and steelhead on and off-reservation over the last four years, benefiting non-Indian fisheries to a greater degree than Indian.

(4) The Quinault Nation has an effective tribal court

2. The Yakima Indian Nation, also found to have met the qualifications and conditions imposed by the District Court, has adjudicated usual and accustomed fishing grounds and stations in the case area, but chooses to conduct all of its fisheries on the Columbia River System, outside the case area. (Findings of Fact No. 158 and No. 159, Joint Appendix p. 158.)

system, accustomed to fishing violation adjudication.

(5) The Quinault Nation has an effective fisheries law enforcement organization.

A brief description of each of these factors follow.

1. Historical and Modern Regulation of Quinault Fisheries

Prior to formal fishing regulations and patrolmen, the Quinault regulated their fisheries by customary means. (Joint Appendix pp. 377-379). In the year 1910, the federal Bureau of Indian Affairs attempted to impose regulations on Quinault fisheries. The Tribe was, however, successful in obtaining a federal court ruling that prohibited the Bureau from interfering in any way with Quinault fisheries. *Mason v. Sams,* 5 F.2d 255 (1925). Shortly after the victory in *Mason, supra,* the Business Committee adopted the first written Quinault Fishing Regulations, which contained for the time they were enacted, substantial provisions for conservation of the run. (Appendix A). Shortly thereafter, a fisheries patrolman and fishing court judge were appointed. (Joint Appendix p. 146, Finding of Fact #124). Since that time the Quinault Nation has regulated its fisheries without interference from federal or state agencies. *Pioneer Packing v. Winslow,* 294 P. 557 (1930). The present Quinault Tribal Conservation Code, Title 51, Quinault Tribal Code, runs to 38 pages (without the addition of specific regulations) and governs every aspect of fishing by Tribal members.

In addition, the Quinault Nation allows only a specified and limited number of fishermen to participate in each fishery. The "limited entry fishery" provides for effective management and enforcement. Each fisherman is assured a greater degree of economic success.

The "unlimited entry fisheries" encouraged until recently by the State of Washington have resulted in overcapitalization of the non-Indian fleet and the uncontrolled destruction of salmon resources.[3]

By tribal law the Tribe limits sale of all fish caught under Tribal license to the Tribal fish processing facility. This limitation aids biological management of Quinault fisheries by making species, catch, and location data immediately available to tribal scientists.

2. Fisheries Science on the Quinault Reservation

The Quinault Nation now employs five fisheries scientists and seven fisheries technicians in its Fisheries Division. (Appendix B; Fisheries Scientists Employed As Full Time Staff by Quinault Indian Nation 1970-78). These biologists have a number of duties including research and development, hatchery management, harvest management, stream rehabilitation, regulation of non-fisheries work in or near streams, data collection, state-tribal relations, advising tribal regulatory and enforcement agencies.

The Fisheries Division maintains its own computer system and laboratory on the reservation for collection, investigation, and analysis of data. The Tribal computer system is linked with those at the University of Washington School of Fisheries and the Washington Department of Fisheries, so that the exchange of data is a rapid and uncomplicated procedure.

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3. In 1974, the State of Washington began to limit entry into its commercial fisheries. Revised Code of Washington 75.28.450-.480. These statutes would appear to prevent Indians, licensed by their tribal governments, from participating in State fisheries.

3. The Quinault Hatchery System

The Quinault Nation operates three Tribal salmon and steelhead production facilities (two on-stream hatcheries and one floating pen hatchery on Lake Quinault). In addition the Tribe cooperates in the running of the Quinault National Fish Hatchery on the Reservation with the United States Bureau of Sports Fisheries and Wildlife. Together these facilities have planted more than forty-eight million salmon and steelhead on the Washington Coast since 1974. (Appendix *C*, Salmon and Steelhead Hatchery Releases From Facilities On the Quinault Indian Reservation For The Period 1974-1978.) Tribal data show that 38% of the salmon and steelhead returning from Quinault Reservation facilities are taken by non-Indian United States fishermen, while only 30% are taken in Indian fisheries. (Appendix *D*, Estimated Contributions to Fisheries of Salmon and Steelhead Releases [1974-1979] From Enhancement Facilities on The Quinault Indian Reservation.)

4. Quinault Tribal Courts

The Quinault Tribal Court and Courts of Appeals evolved from the fishing court set up by the Tribal Business Committee subsequent to the ruling in *Mason v. Sams, supra*. As a result the Tribal Courts have been accustomed to enforcing Tribal conservation laws for over half a century and are well acquainted with the requirement that Tribal fisheries be properly managed.

5. Quinault Tribal Fisheries Enforcement

As stated above, formal tribal fisheries enforcement by tribal patrolmen at Quinault has a long history. Today ten regular and three specially assigned tribal officers patrol

the off-reservation fishing areas on a daily basis. This is a very high patrol ratio as Tribal statistics show that off-reservation fisheries consist of no more than forty (40) fishermen at any one time. Present statistics show that from the beginning of the Fall fishing season 1977, to December 1978, tribal police issued thirty-three (33) citations for violation of commercial regulations, and confiscated thirty-two (32) improperly used or unmarked nets (without citation). Of the thirty-three citations, nineteen (19) resulted in conviction or bail forfeiture and ten (10) were pending.

V.
PRACTICAL DEFINITION OF SELF-REGULATORY STATUS

The Quinault Nation has experienced four years of self-regulation under the requirements set out in the Decision, Orders, and Rulings of the District Court. The practical definition of self-regulation as it has been determined through that experience may be outlined as follows.

(1) The Quinault Nation (through its staff biologists and Fish and Game Commission) establishes its own fishing seasons and regulations. This must be, and is, done through consultation with State biologists and managers. The tribal regulations apply only to Quinault members and to the Quinault share of the run. Problems and disputes are generally resolved at the biologist level by reference to generally accepted data and methods of analysis. State regulations managing the non-treaty share of the run do not apply to Quinault Fisheries.

(2) The Quinault Nation enforces its own regulations and conservation closures. Tribal patrolmen make all ar-

rests of Indian violators,[4] and Indian violators are tried in Tribal courts. Quinault fishermen are not subject to arrest by State Fish and Game agents, and are not subject to being tried in State courts.

(3) The Quinault Nation is generally free of state regulation in fisheries research and propagation activities carried on within usual and accustomed fishing grounds.[5] The Tribe must and does consult with State biologists on all major matters.

Tribes that are not self-regulating are subjected to the jurisdiction of state police and courts, because the state is allowed to adopt tribal fishing regulations as its own; are subject to state conservation closures without prior hearing, and must obtain state permits for fisheries research and propagation activities.

4. In 1974, shortly after the District Court handed down its decision, the Quinault Nation offered to cross-commission certain state fisheries officers as Tribal patrolmen so that they might arrest Quinault violators for violating tribal regulations. The offer, though it has been repeated, has been refused by the State.

5. In 1977, subsequent to this Court's decision in *Puyallup Tribe v. Washington Department of Game*, 433 U.S. 165 (1977), the Department of Game decided to prevent the Quinault Nation by force from planting steelhead in a river upon which usual and accustomed grounds were located. The Department had apparently concluded from *Puyallup Tribe*, *supra*, that if the Quinault Nation were allowed to plant the steelhead, the Tribe might have some proprietary right in the returning fish. The steelhead in question had been raised in a Tribal hatchery under a joint Game Department-Tribal planting program and had scores of thousands of Tribal dollars invested in them. The state action would have required that the fish be destroyed. During the incident State agents drew guns against Indian hatcherymen attempting to plant fish. The Quinault Nation moved under paragraph 25 of the District Court's Injunction for a determination that the fish could be planted. At the assigned hour for hearing the Department relented. (Record, Docket Numbers 2072-2077, April 30, 1976). Later the District Court held that the Quinault Nation, as a self-regulating tribe, was generally not subject to state fisheries jurisdiction in research and propagation matters as long as it acted responsibly and consulted on all major issues with state biologists. (Record, Docket Number 2459, September 14, 1976).

VI.

THE DISTRICT COURT AFFIRMED STATE POWER TO REGULATE QUINAULT TRIBAL FISHERIES FOR CONSERVATION PURPOSES

The State of Washington has the power to regulate Quinault off-reservation fisheries when a danger to conservation can be shown. The holding of the District Court regarding self-regulatory status does not infringe on that power. Despite the self-regulating status of the Quinault Nation, the District Court found that this Court had upon numerous occasions held that States have authority to regulate Indian harvesting of fish and game outside of a reservation when conservation of a species is threatened. (Joint Appendix, p. 82) The holding of the District Court is consistent with a concern for conservation this court has expressed on numerous occasions. *New York ex rel. Kennedy v. Becker*, 241 U.S. 556 (1916); *Tulee v. Washington*, 315 U.S. 681 (1942); *Puyallup Tribe v. Department of Game*, 391 U.S. 392 (1968); *Washington Game Department v. Puyallup Tribe*, 414 U.S. 44 (1973); *Puyallup Tribe v. Washington Game Department*, 433 U.S. 165 (1977). It is also consistent, however, with the ruling in *Antoine v. Washington*, 420 U.S. 194 (1975). In that case this Court held that absent a showing by the State that State regulation of federally protected Indian harvesting of game was necessary for conservation purposes, the State would not be permitted to so regulate.

The District Court foreshadowed the holding in *Antoine*, *supra*, when it enjoined the State as follows:

> Defendants shall not interfere with or regulate or attempt to regulate the treaty right fishing of members of the Yakima Indian Nation or Quinault Tribe or any other treaty tribe during any period for which said

> tribe has been or is hereafter determined pursuant to Final Decision No. 1 to be entitled to self-regulate such fishing by its members without any state regulation thereof; provided however that monitoring by the state as stated as a condition for self-regulation may be exercised by the state and in case of a threat to the resource, the defendants may apply to the court for the exercise of regulatory authority;

(Joint Appendix pp. 219-220; see also, Question 8 of Rulings on Fisheries Questions, Joint Appendix p. 211)

The power of the State to protect the fishery is confirmed by the District Court. If it can be shown that a fishery conducted by a self-regulating tribe threatens the conservation of the resource, the State may assert its police power to halt the fishery. No void in regulatory power necessary to conserve salmon and steelhead run exists. If the self-regulating tribe fails to provide adequate protection through its own regulations and enforcement, the State after prompt, appropriate hearing can step in.

Additionally, failure of a self-regulating tribe to appropriately handle its responsibilities under the provisions of the District Court's decision could lead to a complete loss of self-regulatory status (Joint Appendix p. 228, paragraph 25c of the Injunction) or the complete removal by the District Court of the possibility of attaining self-regulatory status. (Joint Appendix p. 48, note 4)

Maintenance of self-regulatory status provides the tribe with a method for counterbalancing the biased judgments of state fisheries scientists; keeping themselves and their members free from the jurisdiction of biased and brutal State Fish and Game agents and from the judgments of biased state courts. (Joint Appendix p. 31; concurring opinion of Burns, District Judge, Joint Appendix p. 59;

Introduction to the Opinion, *Puget Sound Gillnetters Assn., et al. v. United States District Court, et al.*, 573 F. 2d 1123, at 1126). As a result, self-regulatory tribes are not likely to treat their fisheries management responsibilities lightly and the imposition of proper conservation measures is doubly assured.

VII.

PRACTICAL IMPACT OF SELF-REGULATING STATUS UPON REGULATION OF QUINAULT FISHERIES

Since the handing down of the decision of District Court in 1974, five Quinault off-reservation fishing seasons have come and gone. During each season as many as forty Quinault fishermen have been on the water at any one time. More than one hundred Quinault fishermen have participated in off-reservation fisheries. Throughout those five seasons, throughout all of the differing fisheries (Quinault harvest steelhead, chinook, coho, and chum outside their Reservation) the State of Washington has *not once* gone to the District Court against the Quinault Nation claiming that a State closure of a tribal fishery was necessary for conservation reasons.

In each and every case where a conservation problem arose on a fishery shared by Quinault and non-Indian fishermen, the matter was resolved between Tribal scientists and regulators and State scientists and regulators. Court action has never been necessary. (See: Quinault Tribal Fishery Closures And Adjustments To Meet Spawning Escapement Goals, 1974-78 Appendix E). There can be no doubt, given the enmity between the State and Quinault governments, that if there had been any occasion in which the state had felt that it could show that the

Quinault Nation was acting in a manner that would endanger a fishery it would have gone to the District Court seeking to close the Quinault fishery. Similarly, there can be no doubt that if the State and Tribal governments can work together as they have been required to do under these most trying of circumstances to preserve and protect the fishing resource, self-regulatory status poses no danger to salmon and steelhead fisheries.

VIII.

TRIBAL SELF-REGULATION IN FISHERIES MANAGEMENT IS APPROPRIATE UNDER THE LAW

The off-reservation fishing rights of the Quinault Nation, protected by treaty cannot be qualified by the State. *Puyallup Tribe v. Department of Game*, 391 U.S. 392 at 398 (1968). The State of Washington, throughout this century has consistently used its police power to qualify and destroy off-reservation treaty fishing rights.[6] *United State v. Winans*, 198 U.S. 371 (1905); *State v. Towessnute*, 89 Wash. 478, 154 P. 805 (1916), *State v. Meninoch*, 115 Wash. 528, 197 P. 641 (1921); *State v. Wallahee*, 143 Wash. 117, 255 P. 94 (1927); *State v. Tulee*, 7 Wn.2d 124 (1941); *State v. McCoy*, 63 Wn.2d 421, 387 P.2d 942 (1963); *State v. Moses* 79 Wn.2d 832 (1971). The State continues to act against Indians fishing in usual and accustomed grounds. *State v. Petit*, 88 Wn.2d 267, 558 P.2d 796 (1977). Under the rule in the *Petit* case a treaty Indian charged with illegal fishing in a State court must prove

6. The State claims that the Quinault Nation has only a few off-reservation fishermen (Brief of State of Washington p. 88). This calculation was made at the time when every off-reservation Quinault fishermen was subject to arrest and jailing by the State. (Joint Appendix p. 147, Finding of Fact No. 126.)

beyond a reasonable doubt that he is not guilty of the offense because of his treaty protection in order to be acquitted. 558 P.2d at 799.

The exercise of discretion by the District Court in dividing regulatory power between the Tribe and the State over those harvestable fish not necessary for conservation has avoided the conflicts which would have inevitably developed had the State, which exploits every opportunity to limit or destroy treaty Indian fisheries, been charged with regulating Quinault fisheries.

The Quinault Treaty Fishing right is a tribal right. *Whitefoot v. United States*, 293 F.2d 658, 155 Ct. Cl. 127 (1961), *cert. den.*, 369 U.S. 818 (1962). The Quinault Nation has authority to regulate the use of a tribal right by its members. *Settler v. Lameer*, 507 F.2d 231 (9th Cir. 1974); *United States v. Wheeler*, — U.S. ——, 98 S. Ct. 1079 (1978).

State regulation of tribal hunting and fishing is an unnecessary burden upon the tribal right and a qualification of the treaty right when the state has full and appropriate power to regulate if it can show that conservation is threatened (See section VI) and it has not made such a showing. *Antoine v. Washington*, 420 U.S. 194 (1975). State regulation would be an unnecessary duplication of an already effective system of managing Quinault fisheries operations.

The District Courts' emphasis on the congressionally approved policy of tribal regulation of its own resources has received further emphasis from Congress in the Indian Self Determination Act, 25 U.S.C. §450. In that Act the Congress specifically found that "the Indian people will never surrender their desire to control their relationships both

among themselves and with non-Indian governments, organizations, and person." 25 U.S.C. § 450(a)(2).

Self regulation, as limited by the holding of the District Court, provides first for protection of the resource by allowing only certain especially qualified tribes to exercise such powers and confirming the power of the state to step in if conservation of the run is threatened. Second, it clearly follows the holdings of this Court that do not allow state qualification or regulation of treaty hunting and fishing rights absent a showing of conservation necessity. Third, it doubly protects the necessary escapement because both the State and the Tribal governments must carefully monitor catches to protect the runs and their management powers. Fourth, it avoids unnecessary conflict between historic adversaries in the fishery, thus leading to more effective management. Finally, it furthers federal policy in upholding and strengthening tribal self government.

The Petitioners point to *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973); *Kake v. Egan*, 369 U.S. 60 (1962); and *Kennedy v. Becker*, 241 U.S. 556 (1916) to claim that the State has the absolute and unfettered right to regulate Indian fishing outside the reservation. This Court in *Mescalero* and *Kake* was careful to point out that no federal law prohibited or reserved to the Indians the right to be free of the State tax or fishing regulations imposed in those cases. See *Metlakatla Indian Community v. Egan*, 369 U.S. 45 (1962). Here a specific federally reserved treaty right protects off-reservation fisheries activities of the Quinault Nation.

In *Kennedy, supra*, this Court was confronted with a case in which it was claimed that the State had no right whatsoever to regulate Indian fishing. There this Court expressed its concern in terms of the need for states to be able to regulate for conservation. Here, the District Court specifically affirmed state power to regulate for conservation purposes, (See section VI). The District Court allowed the Quinault Nation to regulate its own fishermen only so long as it cannot be shown by the State that the tribal fisheries are taking any of the fish that have been biologically determined to be the optimal amount of fish appropriate to provide for a stable and increasing run.[7] If the Quinault overstep those bounds the state may step in and impose appropriate regulations.

It has been argued that the Fisheries Conservation and Management Act 1976, 16 U.S.C. § 1801, et seq, (hereinafter "FMCA") is somehow supportive of a "unified" management system for fisheries. Proponents of this theory appear to conclude that every government except a tribal government may regulate its own fisheries. While the FCMA may establish federal policy to conserve fisheries resources, it certainly does not establish anything like a unified management system. At least two of the *numerous* independent, management units set up by the FCMA, the Pacific Council and the North Pacific Council, 16 U.S.C. § 1852, have jurisdiction over salmon and steelhead orig-

7. Although this "escapement" number is usually phrased in terms of the amount of fish "necessary for the conservation of the run," Quinault Tribal and State biologists and regulators generally attempt to protect a larger number so that runs will increase rather than simply being perpetuated or conserved. Tribal fisheries in Grays Harbor have been managed to provide levels of escapement determined by joint agreement with the State. Quinault regulations provide for these levels of escapement through adjustments of fishing effort, late openings of fisheries and complete closures. The Tribe has repeatedly demonstrated sound technical management ability and taken unilateral action to close its fisheries without advice or request from the State.

inating in Quinault usual and accustomed fishing grounds. In addition, the FCMA recognizes that all the states have independent jurisdiction over their own internal waters and marine waters to three miles from shore. 16 U.S.C. § 1856. Under the provisions of the Act, Pacific salmon and steelhead are, thereby, regulated by the two federal councils, four coastal states: Alaska, Washington, Oregon, and California, and one state not even included in any of the federal regulatory units, Idaho. Finally, the federal regulatory units are made up of officers of all the states named in the Act, and members of the fishing and packing industries affected. 16 U.S.C. § 1852 (b)(1)(a). It appears to be overstating the case to claim that this structure is a unified management system. The response of the treaty tribes to the FCMA has been to continuously petition the appropriate officials for appointment of voting members to the Pacific Council. (Appendix F). When no Indians were appointed to the Pacific Council, the tribes were successful in obtaining membership on the non-voting advisory board to the Council. (Appendix G).

IX.

CONCLUSION

The District Court's declaration of self-regulatory status for qualified Indian tribes should be affirmed.

Respectfully submitted,

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APPENDIX A

QUINAULT FISHING REGULATIONS—1925

At tribal meetings of the different tribes and bands of the Quinault and Quilieute Indians held at Taholah, Washington, on the 28th day of April, 1925, confirmed on the 16th day of June, 1925, by a tribal meeting, the said Indians voted to adopt the following rules and regulations to govern fishing upon the Quinault Indian Reservation, and particularly in the Quinault River and Quinault Lake upon said reservation.

(1)—Fishing locations shall be on both sides of the Quinault River, 255 feet apart, and the locations on one side shall be directly opposite the locations on the other side, as shown in a drawing made by Special Agent Dorrington in connection with his report dated December 20, 1915, a photostatic copy of which is on file at the Taholah Indian Agency, Hoquiam, Washington.

(2)—The maximum amount of gear (cross nets, leads and pockets) that may be used on any location shall not be increased in any manner over that provided heretofore per the aforesaid drawing of Special Agent Dorrington except by the action of the Tribal Council called to consider such changes and except as hereinafter provided. Provided, however, that in locations 1 to 5 the entire net shall not exceed 18 fathoms in length.

(3)—An open channel shall be established and maintained as follows:

> Beginning with locations 1 and 2, and including locations 5 and 6, the open channel shall be 75 feet in width; between 7 and 8, to and including locations 39 and 40, the open channel shall be not less than 125 feet in width, for the remaining locations the open channel shall be not less than 100 feet. No fishing is to be permitted in channel, and the said open channel be kept free from stakes, nets, leads or other obstructions of any kind whatsoever at all times. Owners of location will be held responsible for the enforcement of this rule along the front of their respective locations.

(4)—A hook not exceeding 50 feet in length shall be permissible to those fishermen who have no pocket on their web; Provided, however, that in no case shall the hook extend into the open channel provided for in Section 3.

(5)—No nets shall be placed in front of the mouth of the river channel.

(6)—No splash rope or other device that will frighten the fish will be allowed in the river.

(7)—No person shall acquire, operate or control more than one fishing location upon the Quinault River, and the present fishermen now operating fishing locations upon said River shall continue to have the exclusive right to fish said location without the molestation or interference of any person. Any change in any person fishing said location must receive the consent and approval of the proper authorities, and when two or more persons jointly operate or control a fishing location in said River, only one of them shall be allowed to operate same at a time.

(8)—Fishing locations shall not be acquired, operated or controlled by any nonresident Indian, nor acquired, operated or controlled by any person other than a bona fide resident of the Quinault Indian Reservation, nor shall any fishing location be acquired, operated or controlled by any Indian or other person not having full rights upon the said Quinault Indian Reservation.

(9)—If any fishing location is abandoned, or forfeited for a violation of these rules and regulations, or if the operator of said location dies, a majority vote of the Quinault Business Committee shall designate the successor, subject to the approval of the Tribe. Provided, however, that in case of death, preference will be given to the members of the deceased's family, if they be bona fide residents of the Quinault Indian Reservation.

(10)—All nets shall be lifted and removed entirely from the River by 8:00 P.M. on Saturday from April 15th to June 30th, at all other times at 6:00 P.M. and shall not be returned to the River until 6:00 A.M. of the following Monday. No net shall remain on or in the locations during the

hereinafter mentioned closed season under any circumstances. This rule shall apply throughout the entire year.

(11)—All nets shall be lifted and the fish removed therefrom at least once in every 24 hours. Under no circumstances shall nets be allowed to remain is position without having been lifted and the fish removed therefrom for a greater length of time than aforesaid.

(12)—No person shall be allowed to fish in the Quinault Lake except with a hook and line, and no fishing tackle shall be used by any person fishing in said Lake, which tackle will cause the snagging of blue back or other salmon fish, it being our desire and intention that the snagging of blue back salmon, particularly by White people from Lake Quinault shall stop, and that irrespective of what fishing tackle may be used and when it shall appear to the Tribe upon competent proof that any person is intentionally snagging blue back salmon in said Lake even though that person be using but hook and line, all fishing privileges both in the Quinault Lake and the Quinault River heretofore granted such person shall be withdrawn and he or she will not be allowed to again fish in said Lake or River within the boundaries of the Quinault Indian Reservation.

(13)—No person, Indian or otherwise, shall be allowed to fish in any other manner, except with a hook, and line, in or upon the Quinault River at a point above what is called Chow Chow bluff, said Chow Chow Bluff being approximately 6 miles from the mouth of said Quinault River, and under no circumstances or conditions will any set net fishing be allowed above and beyond such Chow Chow Bluff. It being the intention and the purpose of the Quinault Indian Tribe to establish this point as a dead line in said Quinault River, beyond which no person will be allowed to fish accept as herein provided. Provided, however, that this shall not apply to the present fishing location of Bob Pope during his lifetime.

(14)—If any person shall fish illegally or shall violate the foregoing rules and regulations, and upon competent proof of such violation, such person will be suspended from all fishing rights on said Quinault River or Quinault Lake for one year. One violation of said rule or regulation shall be deemed sufficient to invoke this penalty.

(15)—The Quinault River shall be closed to all kinds of net fishing beginning January 31st up to April 15th. Provided, that a net not less than 8 inch mesh shall be used for the period July 1st to September 15th. After September 15th nets or gear of 6½ inches may be used for silver and steelhead.

For home consumption of the party fishing, net fishing will be also permitted during the closed season on Thursday of each week from 6:00 A.M. to 6:00 P.M. under the same limitations as above set forth.

(16)—All new applicants for fishing locations in the Quinault River shall present their applications to a committee of seven, now known as the Quinault Business Committee, the said Committee having been selected by the Tribe. This Committee of seven is authorized to consider all applications for new fishing locations and assign same when in their judgment it is proper to do so. In the event an applicant feels aggrieved or displeased with the ruling of the Committee, it is provided that the applicant shall have the right to appeal to a council meeting of all Indians of the Tribe for the purpose of finally deciding the matter, and then be guided by the action of the Tribe in the premises.

(17)—Violations of any of the foregoing rules except as hereinbefore provided, shall upon conviction therefore, be punished by withdrawal of fishing privileges as follows:

(A)—For the first such offense, the fishing privileges of the violator may be withdrawn for a period of not less than one week and not more than one month.

(B)—For the second offense, or for conviction of three or more violations at the same trial, all fishing privileges of the violator shall be withdrawn for not less than one month, nor for more than one fishing season.

(C)—For the third offense or for numerous flagrant or willful violations, all fishing privileges of the violator shall be withdrawn for the remainder of the season, and the fishing privileges of such holder at said location may be permanently forfeited.

(18)—The Court of Indian Offenses shall have cognizance of the aforesaid offenses, but the Superintendent shall have the right, upon the appeal of the defendant or upon his own motion, to review the case and to make such modifications of the sentence imposed by the Court as may to him seem advisable. The Superintendent shall also have the authority to commute the sentence of the Court of Indian Offenses or to direct a lesser sentence than herein provided when, in his opinion, good and sufficient reason exists therefor. The defendant shall have the right of an appeal to the Superintendent and the Commissioner of Indian Affairs in all cases.

(19)—In the interest of propagation, the Bureau of Fisheries will have sole jurisdiction over the streams entering Quinault Lake which are known as spawning grounds, and joint responsibility in enforcing the laws and policing the Lake, and the outlet of the Quinault River, however the Quinault Indian Tribe wishes at this time to go on record as opposing the fish weir now in use by the United States Bureau of Fisheries, it is our wish that this fish weir be abandoned, we see no useful purpose in maintaining same, we think it is destructive to the salmon and the propagation of same, as this weir destroys many salmon, and has been in operation for over 4 years. We grant the Bureau of Fisheries certain rights upon our reservation, and in return for these we ask that this weir be removed and take this opportunity of going on record against this weir.

(20)—That all of the foregoing rules and regulations be enforced by such officer or officers as the Secretary of the Interior or the Commissioner of Indian Affairs may designate.

We, the following named Indians, do hereby certify that we, and each of us are duly enrolled Indians and actual residents of the Quinault Indian Reservation, Washington, and that at a duly authorized tribal council held at Taholah, Washington, upon June 16, 1925, we and each of us were appointed, designated and elected by the entire vote of the Quinault and Quilieute Tribe and bands of Indians, to act as the Business Committee to represent the above named Tribes and Bands in any and all dealings which said Tribes and Bands may or might have with any person or persons, and that we, the following named committee have been

especially authorized to sign the foregoing rules and regulations upon the behalf of said Tribes and Bands, said Tribes and Bands having previously voted in favor of each and every one of the foregoing rules and regulations, and we the following named Committee are further authorized to submit same to the Secretary of the Interior, and the Commissioner of Indian Affairs for approval.

/s/ Harry Shale, President

/s/ William Mason

/s/ Chas. Strom

/s/ Oscar McLeod

/s/ Robert Sampson

/s/ Fred Pope

/s/ Johnson Waukeenas

/s/ W. J. Garfield

Quinault Business Committee

APPENDIX B

FISHERIES SCIENTISTS EMPLOYED AS FULL TIME STAFF BY THE QUINAULT INDIAN NATION 1970-78

Guy R. McMinds 1970-76	Bachelor of Science in Fisheries, University of Washington. Director, Quinault Department of Natural Resources. Responsible for setting and supervising over-all direction of the Quinault Fisheries Division.
Dr. Gary D. Stouffer 1971-72	Bachelor of Science in Fisheries, University of Washington. Master of Science in Fisheries, University of Washington. Doctor of Philosophy, Fisheries, University of Washington. Assistant Director, Quinault Department of Natural Resources. Responsible for development and supervision of fisheries program, especially projects related to environmental protection and logging practices.
Dr. Brian J. Allee 1971-73	Bachelor of Arts in Zoology, University of California. Doctor of Philosophy, Fisheries, University of Washington. Fisheries Manager, Quinault Fisheries Division. Responsible for harvest management and fishing resource restoration as well as technical planning and supervision of the Fisheries Division.
Norman H. Moe 1972-74	Bachelor of Science in Fisheries, Humboldt State College. Assistant Director, Quinault Department of Natural Resources. Responsible for planning and direction of Fisheries Division, especially tribal salmon and steelhead enhancement projects.

Terry L. Martin 1973-74	Bachelor of Science in Fisheries, University of Washington. Field supervisor, Quinault Fisheries Division. Responsible for resource studies related to salmon and steelhead juvenile abundance and environmental quality.
Terry E. Wright 1974-present	Bachelor of Science in Fisheries, University of Washington. Program Operations Manager, Quinault Fisheries Division. Responsible for operations of Fisheries Division including administration, resource enhancement, harvest management and environmental protection.
Dr. Jeffrey T. Fujioka 1974-75	Bachelor of Science in Fisheries, University of Washington. Master of Science in Fisheries, University of Washington. Doctor of Philosophy in Fisheries, University of Washington. Harvest Manager, Quinault Fisheries Division. Responsible for harvest regulations for all tribal fisheries. Also developed harvest management policies, such as limited entry fisheries, with the tribal Fish and Game Commission.
Cary L. Feldman 1974-78	Bachelor of Science in Fisheries, University of Washington. Master of Science in Fisheries, University of Washington. Resource Enhancement Manager, Quinault Fisheries Division. Responsible for planning and supervising all salmon hatchery and rearing activities.
Lynn Hatcher 1974-present	Bachelor of Science in Fisheries, University of Washington. Field Supervisor, Quinault Fisheries Division. Responsible for design and supervision of resource projects related to salmon and steelhead juvenile abundance, environmental quality and productivity of salmon and steelhead habitats.

Lawrence C. Lestelle 1974-present	Bachelor of Science in Fisheries, University of Washington. Master of Science in Fisheries, University of Washington. Environmental Manager, Quinault Fisheries Division. Responsible for over-all planning and supervision of studies related to environmental quality and natural production of salmon and steelhead.
Larry G. Gilbertson 1974-present	Bachelor of Science in Fisheries, University of Washington. Candidate for Doctor of Philosophy, Fisheries, University of Washington (will receive PhD. in Spring, 1979). Fisheries Manager, Quinault Fisheries Division. Responsible for planning, direction and supervision of entire Fisheries Division.
Phillip B. Roger 1975-present	Bachelor of Science in Fisheries, University of Washington. Master of Science in Fisheries, University of Washington. Harvest Manager, Quinault Fisheries Division. Responsible for supervision of all harvest management activities, including: preparation of regulations and data acquisition and analysis. Also responsible for data processing for entire Fisheries Division.
Paul B. Cunningham 1978-present	Bachelor of Science in Fisheries, Humboldt State University. Assistant Harvest Manager, Quinault Fisheries Division. Responsible for planning and supervision of activities related to harvest management of all tribal fisheries.

APPENDIX C

SALMON AND STEELHEAD HATCHERY RELEASES FROM FACILITIES ON THE QUINAULT INDIAN RESERVATION FOR THE PERIOD 1974-1978

Station	*Species*	*Year*	*No. Planted*	*Site (drainage system)*
Cook Creek Hatchery	Fall Chinook Salmon	1974	1,662,100	Quinault R.
		1975	643,306	Quinault R.
		1976	1,270,500	Quinault R.
		1977	2,240,200	Quinault R.
		1978	2,035,000	Quinault R.
			555,000	Sooes R.
	Coho Salmon	1974	1,294,000	Quinault R.
		1975	1,039,029	Quinault R.
			94,032	Queets R.
			100,000	Raft R.
			80,000	Moclips R.
			100,000	Copalis R.
			232,368	Humptulips R.
			330,000	Hoh R.
		1976	1,322,820	Quinault R.
			186,100*	Quinault R.
			109,865	Queets R.
			100,310	Raft R.
			50,000	Moclips R.
			144,667	Humptulips R.
			150,000	Hoh R.
		1977	1,402,450	Quinault R.
			225,000	Queets R.
			100,240	Raft R.
			155,000	Humptulips R.
			150,050	Hoh R.
		1978	1,100,000	Quinault R.
			265,000	Queets R.
			50,000	Raft R.
			50,000	Humptulips R.
			150,000	Hoh R.
	Chum Salmon	1974	193,000	Quinault R.
		1975	1,693,978	Quinault R.
			1,500,000	Sooes R.
		1976	3,121,900	Quinault R.
			998,577	Sooes R.
		1977	2,225,000	Quinault R.
			1,004,000	Sooes R.
		1978	2,000,000	Quinault R.
			630,000	Sooes R.

Station	Species	Year	No. Planted	Site (drainage system)
	Steelhead	1974	22,257	Quinault R.
		1975	48,500	Quinault R.
		1976	166,600	Quinault R.
		1977	49,500	Quinault R.
		1978	78,300	Quinault R.
Lake Quinault Rearing Station	Fall Chinook Salmon	1975	18,697	Queets R.
		1976	21,419	Queets R.
		1977	17,732	Queets R.
		1978	199,000	Quinault R.
			169,000	Queets R.
			1,927,475	Raft R.
	Spring Chinook Salmon	1976	68,288	Quinault R.
			72,953	Queets R.
	Coho Salmon	1975	98,581	Queets R.
		1976	37,550	Quinault R.
			32,106	Queets R.
			139,324*	Raft R.
		1977	334,000	Raft R.
	Chum Salmon	1977	105,000	Quinault R.
	Steelhead Trout	1976	74,715	Quinault R.
			26,345	Humptulips R.
			240,352*	Raft R.
		1977	44,291	Quinault R.
			109,314	Raft R.
			82,305	Humptulips R.
		1978	9,450	Quinault R.
			1,000	Queets R.
			7,186	Humptulips R.
			35,000	Hoh R.
	Sockeye Salmon	1974	154,730	Quinault R.
		1975	192,633	Quinault R.
		1976	937,476	Quinault R.
		1977	16,000	Quinault R.
		1978	388,778	Quinault R.
Ten O'Clock Creek Station	Coho Salmon	1975	27,155*	Quinault R.
			89,042*	Raft R.
			50,520*	Wreck Cr.
			147,645*	Camp Cr.
		1976	325,176*	Quinault R.
		1977	1,925,000*	Quinault R.

Station	Species	Year	No. Planted	Site (drainage system)
	Chum Salmon	1975	1,500,000	Quinault R.
			300,000	Queets R.
		1977	2,200,000	Quinault R.
			990,000	Queets R.
		1978	676,000	Quinault R.
			709,800	Queets R.
			676,000	Raft R.
	Sockeye Salmon	1975	148,410*	Quinault R.
		1976	300,000*	Quinault R.
	Steelhead Trout	1975	240,000*	Raft R.
Boulder Creek Station	Spring Chinook	1977	430,000*	Quinault R.
	Coho Salmon	1977	370,000*	Quinault R.
			579,397*	Raft R.
	Sockeye Salmon	1977	170,000*	Quinault R.
	Steelhead Trout	1978	25,000	Quinault R.

Total	Fall Chinook	Spring Chinook	Coho	Chum	Sockeye	Steelhead
On-Reservation						
Quinault R.	8,050,106	498,288	9,029,280	13,714,878	2,308,027	518,613
Queets R.	226,848	72,953	824,584	1,999,800		1,000
Raft R.	1,927,475		1,492,313	676,000		589,666
Other			328,165			
Off-Reservation						
Humptulips R.			582,035			115,836
Hoh R.			780,050			17,349
Sooes R.	555,000			4,132,577		
Other			100,000			
Grand Total	10,759,429	571,241	13,136,427	20,523,255	2,308,027	1,242,464

*Release of juveniles as fed-fry or fingerling. All other releases are smolt (downstream migrants).

APPENDIX D

ESTIMATED CONTRIBUTIONS TO FISHERIES OF SALMON AND STEELHEAD RELEASE (1974-1979) FROM ENHANCEMENT FACILITIES ON THE QUINAULT INDIAN RESERVATION

	Fall Chinook	*Spring Chinook*	*Fall Coho*	*Chum*	*Sockeye*	*Steelhead*	*Total*
Ocean Troll	3,120	331	117,958				121,409
Ocean Sport	2,259	428	33,020				35,707
Puget Sound Sport	753	514	890				2,157
Canadian Troll and Sport	53,474	13,921	121,364				188,759
Canadian Net	2,797	126	4,098				7,021
Oregon-California	215	0	36,307				36,522
Alaska	9,791	4,627	0				14,418
Puget Sound Net	108	143	0				251
Grays Harbor Net							
Non-Treaty	0	0	1,204				1,204
Treaty	0	0	4,815				4,815
River Net (treaty)	35,076	474	63,776	51,308	11,540	17,440	179,612
Steelhead Sport						17,440	17,440
Total							
Treaty Indian Catch	35,076	474	68,591	51,308	11,540	17,440	184,429
Non-Treaty Catch	72,517	20,090	314,841	0	0	17,440	424,888

12/12/78

APPENDIX E

QUINAULT TRIBAL FISHERY CLOSURES AND ADJUSTMENTS TO MEET SPAWNING ESCAPEMENT GOALS, 1974-78

I. On-Reservation

Quinault River

1974

Commercial net fishery reduced from seven to five days per week from October 10 through November 4.

Justification: Reduce high rate of exploitation on chinook salmon caused by unusual low flow conditions.

1976

Commercial net fishery closed Friday, June 18

Justification: Additional 24 hour closure necessary to meet escapement goal.

1977

Commercial net fishery reduced from seven days to four days per week from February 1 to March 1. River sport fishery reduced to two steelhead per fisherman bag limit for duration of season.

Justification: Reduce total rate of exploitation on steelhead to meet spawning escapement goal.

All non-guide river sport fishing closed on weekends from March 1 for duration of season.

Justification Reduce total rate of exploitation on steelhead to meet spawning escapement goal.

Commercial net fishery reduced from six to four and a half days per week from June 10 for duration of sockeye season.

Justification: Reduce total rate of exploitation on sockeye salmon to meet escapement goal.

Commercial net fishery reduced from seven to four and a half days per week from October 6 to No-

vember 1. Minimum mesh size increased from 6 to 7¾ inches.

Justification: Reduce total rate of exploitation on chinook and coho salmon to meet escapement goal.

Commercial net fishery reduced from seven to five and a half days per week from November 1 for duration of fall salmon fishery.

Justification: Reduce total rate of exploitation on coho salmon to meet escapement goal.

1978

Commercial net fishery closed from June 14 for duration of sockeye salmon season.

Justification: Total closure necessary to meet escapement goal.

Commercial net fishery reduced from seven to five days per week from October 12 for duration of fall salmon season.

Justification: Reduce total rate of exploitation on coho salmon stocks to meet escapement goal.

Queets River

1974

Commercial net fishery reduced from seven to five days per week from October 10 through October 30.

Justification: Reduce unusually high rate of exploitation on chinook salmon caused by unusual low flow conditions.

1975

Commercial net fishery for spring and summer chinook reduced from seven to five days per week from July 2 to August 1.

Justification: Reduce exploitation on depressed runs of spring and summer chinook.

1976

Commercial net fishery for spring and summer chinook reduced from seven to five days per week from May 1 to August 1.

Justification: Reduce exploitation on depressed runs of spring and summer chinook.

1977

Commercial net fishery for steelhead terminated on February 1, (1977) for the remainder of the season (through April 30).

Justification: Increase escapement on depressed runs of steelhead.

Commercial net fishery for spring chinook reduced from five days during week of May 1-7 to 2½ days.

Justification: Reduce exploitation on depressed run of spring chinook.

Commercial net fishery for blueback reduced from five days during week of May 1-7 to 2 days.

Justification: Minimize incidental catch of spring chinook.

Commercial net fishery for spring chinook reduced from five days per week from May 8-28 to 2½ days per week.

Justification: Reduce exploitation on depressed run of spring chinook.

Commercial net fishery for blueback reduced from five days per week from May 8-28 to 2 days per week.

Justification: Minimize incidental catch of spring chinook.

Commercial net fishery for spring chinook stopped on May 24 until June 6.

Justification: Reduce exploitation on depressed run of spring chinook.

Commercial net fishery for blueback reduced from five days during week of May 22-28 to two days and stopped during week of May 29-June 6.

Justification: Minimize incidental catch of spring chinook.

Commercial net fisheries for salmon and steelhead permanently changed from seven days per week to five days per week year round.

Justification: To establish a base fishing period per week at five days thereby assuring at least a two day per week escapement.

Drift net fishing declared illegal during summer months (to remain in effect during future years).

Justification: Reduce exploitation on spring-summer chinook.

Commercial seine fishery for smelt and perch reduced from a potential for seven days per week to two days per week during week of July 25-30.

Justification: Reduce fishing mortality on outmigrating juvenile chinook salmon.

Commercial seine fishery for smelt and perch terminated until further notice.

Justification: Reduce fishing mortality on outmigrating juvenile chinook.

Commercial seine fishery for smelt and perch restored to two days per week through remainder of summer.

Justification: Juvenile chinook outmigration over peak and fishing mortality reduced to low level.

Commercial net fishery closed from October 18 to October 21.

Justification: Complete closure necessary to meet escapement goal for coho salmon.

Commercial net fishery reduced from five days per week to two days per week and minimum mesh size increased from 6 to 7¾ inch from October 21 to November 29.

Justification: Reduce total exploitation on chinook and coho salmon to meet escapement goals.

1978

Commercial net fishery for spring and summer chinook reduced from five days per week from May 1 to August 31 to one day per week during May, two days per week during June, and three days per week during August.

Justification: Reduce exploitation on spring-summer chinook to increase spawning escapement.

Commercial net fisheries for salmon set at five days per week for period October 1 to November 30.

Justification: Provide mechanism for escapement and collect data for fishery evaluation.

Commercial net fisheries for salmon terminated on October 21 until further notice.

Justification: Complete closure necessary to meet escapement goal for coho salmon.

Commercial net fishery for steelhead began on November 20 for two days during the week of November 19-25.

Justification: Minimize incidental catch of coho while beginning winter steelhead fishery.

Commercial net fishery for steelhead established for 1978-79 winter season:

3 days per week from November 26 to December 2
4 days per week from December 3 to January 27
2 days per week from January 28 to February 24
3 days per week from February 25 to April 30

Justification: Regulate fishing effort according to run strength for each management period thereby assuring more even escapement.

Raft and Moclips Rivers

The Raft and Moclips Rivers have been closed by tribal law to commercial fisheries since 1962 due to logging damage on spawning grounds.

II. Off-Reservation

Grays Harbor and tributaries

1974

All commercial net fisheries closed October 11 to October 14 and October 17 to October 20.

Justification: Reduce unusually high rate of exploitation on chinook salmon caused by low flow conditions.

1975

Opening of commercial net fisheries in Areas 1, 1-A, and Chehalis River delayed from September 18 to October 3.

Justification: Complete closure necessary to meet chinook salmon escapement goal.

1976

All commercial net fisheries closed September 28 to October 7.

Justification: Closure necessary to meet chinook and coho salmon escapement goals.

Commercial net fisheries in Areas 1-C and Humptulips River closed December 23 for duration of season.

Justification: Complete closure necessary to meet escapement goals for steelhead.

Commercial net fisheries closed in Areas 2-A, 2A-1, 2D and Chehalis River closed December 22 for duration of season.

Justification: Complete closure necessary to meet escapement goals for steelhead.

1977

All commercial net fisheries closed October 10 to October 16.

Justification: Complete closure necessary to meet escapement goals for coho salmon.

All commercial net fisheries closed October 18 to October 25.

Justification: Complete closure necessary to meet escapement goals for coho salmon.

All commercial net fisheries closed October 26 to November 13.

Justification: Complete closure necessary to meet escapement goals for coho salmon.

All commercial net fisheries closed November 23 to December 6.

Justification: Complete closure necessary to meet escapement goals for coho salmon.

1978

Commercial net fishery closed in Areas 2A, 2A-1, 2D and Chehalis River from January 4 for duration of steelhead season.

Justification: Total allowable harvest taken. Closure necessary to meet escapement goals.

Commercial net fishery closed in Areas 2C and Humptulips River from January 20 for duration of steelhead season.

Justification: Total allowable harvest taken. Closure necessary to meet escapement goals.

Commercial net fisheries reduced from five to three days per week, all areas, for entire season.

Justification: Reduction necessary to meet escapement goals for chinook and coho salmon.

Commercial net fishery in all areas reduced from three days to one day per week, October 21 to November 1.

Justification: Reduction necessary to meet escapement goals for chinook salmon.

Commercial net fishery closed in all areas November 16 to December 18.

Justification: Complete closure necessary to meet escapement goal for coho salmon.

APPENDIX F

STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
OLYMPIA

DANIEL J. EVANS
GOVERNOR

April 30, 1976

Northwest Indian Fisheries Commission
P. O. Box 2445
Olympia, WA 98507

Gentlemen:

All of you are aware that the President has recently signed the Fishery Conservation and Management Act of 1976. This landmark legislation establishes a 200-mile fishery conservation zone and, among other things, provides for U.S. management authority within this zone.

In order to facilitate management, the Act establishes Regional Fishery Management Councils with authority to develop and implement plans for specific fisheries.

For the Pacific Council, the legislation provides for 13 voting members, consisting of the State officials responsible for marine fishery management (State fishery directors), the regional director of the National Marine Fisheries Service, and eight appointments by the Secretary of Commerce from names submitted by the Governors of the constituent states. For each of the five possible positions on the Pacific Council, I am empowered to nominate at least three individuals. In addition, I am also required by the legislation to submit names of qualified individuals for appointment to the North Pacific Council (Alaska), on which Washington will have two appointments from list of six nominees, Thus, there will be a minimum of 15 nominees for the Pacific Council and six for the North Pacific Council.

The legislation requires that the "lists of qualified individuals" for membership be submitted to the Secretary of Commerce no later than 45 days after the date of enactment of the Act (April 13, 1976). These individuals should be knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest

of the fishery resources of the geographic area concerned.

I am seeking the names of such qualified individuals along with pertinent biographical data from the diverse fishing interests in Washington. In order to meet the time constraints provided for in the Act, these names and appropriate information should be submitted to me no later than May 15, 1976.

The Fishery Conservation and Management Act of 1976 provides an historic opportunity to conserve and develop our national resources and realize their full potential for all citizens. I urge you to submit names of individuals who meet the above qualfications and who can provide the effective leadership needed for the task ahead.

Sincerely,

Daniel J. Evans
Governor

DJE:nb

Northwest Indian Fisheries Commission
May 14, 1976

The Honorable Daniel J. Evans
Governor of the State of Washington
Public Lands Building
Room 101
Olympia, Washington 98504

Dear Governor Evans,

The Northwest Indian Fisheries Commission and all fishing Tribes of Washington wish to submit the names of three individuals, Charles Peterson, Guy R. McMinds, and William L. Smith as qualified Indian individuals for your nomination to the Secretary of Commerce for appointment to the Pacific Regional Council established by the Fishing Conservation and Management Act of 1976.

Enclosed please find the biographical data regarding these three individuals.

Sincerely,

William L. Smith
Executive Director,
Northwest Indian Fisheries
Commission

APPENDIX G

United States Department of the Interior
FISH AND WILDLIFE SERVICE
Box 36098
450 Golden Gate Ave.
San Francisco, CA 94102

November 29, 1976

To: Assistant Director ARDW

From: FWS Representative, PFMC

Subject: Salmon Advisory Panel

Here is the list of appointments to the Salmon Advisory Panel of the Pacific Fishery Management Council. The representatives were selected at the second meeting of the Council, at San Francisco on November 22-23.

There are 21 shown on the list. Actually, there will be 22 members on the panel. The Council voted to add another representative of Indian treaty tribes, increasing the Indian representatives from 2 to 3. The third representative is to be selected by the Puget Sound treaty Indians and is to represent the Indian *coastal* fishermen of that area.

The Council made this change on a motion by Donald Moos, Washington.

The 2 Indian representatives selected at the San Francisco meeting are:

Puget Sound — Guy McMinds, Quinault
Tahola, WA

Columbia River — Clifford Allen, Nez Perce
Lapwai, ID

Note that the Panel will hold its first meeting at Portland on December 14-16, though why it apparently will need two or three days for that escapes me.

William T. Davoren